

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Darrin Paul Millwood,)	
)	C/A No. 4:11-0445-MBS
Plaintiff,)	
)	
vs.)	ORDER
)	
Benjamin Weatherman, Arresting Officer)	
Spartanburg City Police; James Paslay,)	
Magistrate who signed warrant,)	
)	
Defendants.)	
)	

Plaintiff Darrin Paul Millwood is a pretrial detainee at the Spartanburg County Detention Center. Plaintiff, proceeding pro se, brings this action pursuant to 42 U.S.C. § 1983, seeking damages and injunctive relief for alleged violations of his rights.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Thomas E. Rogers, III for pretrial handling. The Magistrate Judge reviewed the complaint pursuant to the provisions of 28 U.S.C. § 1915, 28 U.S.C. § 1915A, and the Prison Litigation Reform Act. On June 14, 2011, the Magistrate Judge filed a Report and Recommendation in which he noted that Defendant Paslay is entitled to absolute judicial immunity, and that Plaintiff failed to state a constitutional claim as to Defendant Weatherman. The Magistrate Judge also noted that there is no liability under § 1983 for claims of emotional distress. Further, the Magistrate Judge noted that, to the extent Plaintiff alleged denial of medical care, Plaintiff made no factual allegations to support such a claim. Accordingly, the Magistrate Judge recommended that the complaint be summarily dismissed without prejudice and without issuance and service of process. Plaintiff filed no objections to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court may accept, reject, or modify, in whole or in part, the Report and Recommendation or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has thoroughly reviewed the record. The court adopts the Report and Recommendation and incorporates it herein by reference. Plaintiff’s complaint is dismissed without prejudice and without issuance and service of process.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
United States District Judge

Columbia, South Carolina

July 12, 2011

NOTICE OF RIGHT TO APPEAL

**Plaintiff is hereby notified of the right to appeal this order
pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.**